

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Chester J. Duda.

Petitioner

V.

Brian Williams, et al.,

Respondents

2:16-cv-02108-JAD-VCF

**Order Granting Application to Proceed
in forma pauperis, Directing Service on
Respondents, and Setting Briefing
Schedule**

[ECF No. 1]

Nevada state-prison inmate Chester J. Duda has submitted a § 2254 petition along with an application to proceed *in forma pauperis*. Because Duda's IFP application and supporting documents show that he is unable to pay the filing fee, I grant his application to proceed *in forma pauperis* and screen his petition under Rule 4 of the Rules Governing § 2254 Cases. Because it is not clear from the face of Duda's petition that he is not entitled to relief, I instruct the Clerk to file the petition and electronically serve it on respondents and I order the respondents to file a response by **January 31, 2017**.

17 Duda is cautioned that a federal habeas petition should include all claims that he believes
18 entitle him to federal habeas relief. If he fails to include a claim in this petition, he may be forever
19 barred from seeking federal habeas relief on that claim.¹ If Duda wishes to add any claim to his
20 petition, he should file a motion to amend his petition as soon as possible.

Conclusion

22 Accordingly, IT IS HEREBY ORDERED that Duda's application to proceed *in forma
pauperis* [ECF No. 1] is GRANTED.

24 The Clerk of Court is directed to FILE and electronically SERVE Duda's petition [ECF No.
25 **1-1**] on respondents and add Adam Paul Laxalt, Nevada Attorney General, as counsel for

²⁷ ¹ See 28 U.S.C. §2254(b) (barring successive petitions).

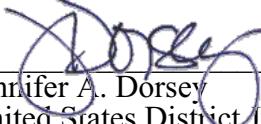
1 respondents.

2 IT IS FURTHER ORDERED that respondents must respond to the petition by **January 31,**

3 **2017.** Any response must comply with Habeas Rule 5:

- 4 1. Any procedural defenses must be raised together in a single consolidated motion to
5 dismiss. Any procedural defenses not raised in the motion may be subject to waiver.
- 6 2. Respondents must not consolidate their procedural defenses, if any, with their
7 response on the merits, except under 28 U.S.C. § 2254(b)(2) as to any unexhausted
8 claims clearly lacking merit. If respondents do seek dismissal of unexhausted claims
9 under § 2254(b)(2): (a) they must do so in a dismissal motion, not the answer; and (b)
10 they must direct their argument to the standard for dismissal under § 2254(b)(2) set
11 forth in *Cassett v. Stewart*, 406 F.3d 614, 623–24 (9th Cir. 2005).
- 12 3. In any answer filed on the merits, respondents must cite to and address the applicable
13 state-court decision and record materials, if any, that pertain to each claim.
- 14 4. Duda will have 45 days from service of the response to file a reply or opposition. All
15 other requests for relief by respondents or Duda will be subject to the normal briefing
16 schedule under this court's local rules.
- 17 5. Any additional state-court record exhibits filed by either party must be filed with a
18 separate index of exhibits identifying the exhibits by number. Any CM/ECF
19 attachments must be identified by the number of the exhibit in the attachment.
- 20 6. The parties must send courtesy copies of all exhibits to the Clerk of Court, 400 S.
21 Virginia St. Reno, NV, 89501, Attention "Staff Attorney."

22 Dated: November 1, 2016.


23 Jennifer A. Dorsey
24 United States District Judge

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